

Downtown Parking Advisory Committee

Friday, February 13, 2015 8:30 AM

City Council Chambers

AGENDA

1. Review of Options to Address Car Shuffling



**Supply Contract
between
The City of Bangor
and
Clean Harbors**

THIS CONTRACT made this 6th day of February, 2015, by and between the City of Bangor (hereinafter called the "CITY"), and Clean Harbors Environmental Services, Inc. (hereinafter called the "SUPPLIER").

The Parties noted above agree as follows:

Article 1: Statement of Work:

In consideration of the promises herein contained, the SUPPLIER agrees to perform the following services:

Furnish all labor, materials, equipment and personnel required for the collection and disposal of hazardous and biological waste, including but not limited to emergency response, oil water separator clean out, and parts washer clean out and maintenance, for a period of three (3) years beginning January 1, 2015, in accordance with CONTRACTOR's proposal dated November 21, 2014.

Article 2: Term of Contract:

This CONTRACT shall be effective upon execution and continue through December 31, 2018.

Article 3: Prices:

For full and complete performance, OWNER agrees to pay SUPPLIER the sums outlined in SUPPLIER's proposal dated November 21, 2014.

Article 4: Billing and Payment to Supplier:

The SUPPLIER shall issue an invoice with a net thirty (30) day term, to the CITY after each delivery. Upon receipt of the invoice, the CITY shall make payment to the SUPPLIER in accordance with its normal invoice payment cycle.

Article 5: Insurance:

The SUPPLIER shall arrange insurance for the minimum limits indicated and shall maintain the below listed coverage throughout the period of performance.

- | | <u>LIMITS</u> |
|---|--|
| a. Workers' Compensation Insurance | Statutory |
| Employer's Liability Insurance | \$100,000 each accident
\$500,000 disease - policy unit
\$100,000 disease - each empl. |
| b. Comprehensive General Liability (Public Liability) Insurance including: | |
| General Liability | \$1,000,000 aggregate |
| Products, Completed Operations | \$1,000,000 aggregate |
| Personal & Advertising Injury | \$ 500,000 |
| Each Occurrence | \$ 500,000 |
| Fire Damage | \$ 50,000 any one fire |
| Medical Expense | \$ 5,000 any one person |
| c. Automobile Liability Insurance (owned, hired & non-owned): | |
| Bodily Injury & Property Damage | \$1,000,000 combined single limit |
| d. The SUPPLIER shall provide a waiver of any rights of subrogation which the SUPPLIER may have against the CITY, its agents or its employees. | |
| e. Before any of the work is started under this CONTRACT, the SUPPLIER shall file with the Purchasing Department a certificate of insurance containing the following information in respect to all insurance carried: | |
| (1) Name of insurance company, policy number and expiration date; | |
| (2) The coverage required and the limits on each, including the amount of deductible or self-insured retentions (which shall be for the account of the SUPPLIER); | |
| (3) A statement indicating that the CITY shall receive thirty (30) days notice of cancellation or significant modification of any of the policies which may affect the CITY's interest; and | |
| (4) The CITY as an additional insured (except Workers' Compensation Insurance). | |
| f. If any of the work performed under this CONTRACT includes blasting, excavating, pile driving or caisson work; moving, shoring, underpinning, razing or demolition of any structure or removal or rebuilding of any structural support thereof, or any subsurface or underground work, the Comprehensive General Liability Insurance policy shall include coverage for the explosion, collapse and underground hazards. | |

Article 6: Indemnification:

The SUPPLIER shall indemnify, defend and hold harmless the CITY from and against all claims, actions, and all expenses incidental to such claims or actions, based upon or arising out of damage to property or injuries to persons or other tortious acts caused or contributed to by the SUPPLIER or anyone acting under its direction or control or in its behalf in the course of its performance under this CONTRACT, provided the SUPPLIER's aforesaid indemnity and hold harmless agreement shall not be applicable to any liability based upon the sole negligence of the CITY.

The SUPPLIER hereby expressly agrees that it will defend, indemnify and hold the CITY harmless from any and all claims made or asserted by SUPPLIER's agents, servants or employees arising out of SUPPLIER's activities under this CONTRACT. For this purpose, SUPPLIER hereby expressly waives any and all immunity it may have under Maine's Workers Compensation Act in regard to such claims made or asserted by SUPPLIER's agents, servants or employees. The indemnification provided under this paragraph shall extend to and include any and all costs incurred by the CITY to answer, investigate, defend and settle all such claims, including but not limited to the CITY's costs for attorney's fees, expert and other witness fees, the cost of investigators, and payment in full of any and all judgments rendered in favor of SUPPLIER's agent, servants or employees against the CITY in regard to claims made or asserted by such agents, servants or employees.

The indemnification protection afforded to the CITY by SUPPLIER shall only apply to the extent of SUPPLIER's negligence, error, omission or willful misconduct.

Neither party shall be liable to the other for any indirect, incidental, consequential, or special damages, including loss of use or lost profits.

Article 7: Equal Employment Opportunity:

The SUPPLIER agrees not to discriminate against any employee or applicant for employment because of age, race, color, religion, sex or national origin. The SUPPLIER shall comply with applicable laws, Executive Orders, and regulations concerning nondiscrimination in employment, including the Equal Opportunity Clause of Section 202 Executive Order 11246, as amended, which is hereby incorporated by reference.

Article 8: Assignment:

SUPPLIER shall not sublet any part of this CONTRACT or assign any monies due him/her hereunder without first obtaining the written consent of the CITY. This CONTRACT shall inure to the benefit of and shall be binding on the parties and on their respective successors and assigns. Neither party shall assign or transfer his/her or its interest in whole or in part to this CONTRACT without the written consent of the other.

Article 9: Disagreements:

To prevent all disputes or litigation, it is understood that all questions arising as to the proper performance and the amount to be paid under this CONTRACT shall be the decision of the Finance Director.

Article 10: Liability for Damage:

The CITY, its officers, agents or employees, shall not in any manner be liable or responsible for any loss or damage due to the SUPPLIER's work or to any part thereof; to any equipment, or other property that may be used or employed therein, for any injury, damages or compensation required to be paid under any present or future law, to any person, whether an employee of the SUPPLIER or otherwise; or for any damage to any property occurring during or resulting from the work, except to the extent the same are caused by the CITY's, or its employees' or agent's negligence or willful misconduct. SUPPLIER shall indemnify the CITY, its officers, agents and employees against all such injuries, damages and compensation plus the reasonable cost of attorney's fees arising or resulting from the SUPPLIER's work pursuant to this CONTRACT.

Article 11: Termination of Contract:

Termination for Convenience: The CITY may terminate this CONTRACT, in whole or in part, whenever the CITY determines that such termination is in the best interest of the CITY, without showing cause, upon giving thirty (30) days notice to the SUPPLIER. The CITY will pay all invoices for deliveries up to the date of termination. The SUPPLIER will not be reimbursed for any profits that may have been anticipated but have not been earned up to the date of termination.

Termination for Default: When the SUPPLIER has not performed or has unsatisfactorily performed this CONTRACT, the CITY may terminate this CONTRACT for default. Upon termination for default, payment may be withheld at the discretion of the CITY. Failure on the part of the SUPPLIER to fulfill contractual obligations shall be considered just cause for termination of this CONTRACT.

Article 12: Notices:

All notices required or permitted to be given under this CONTRACT or the specifications shall be in writing and shall be deemed to be properly and sufficiently given when deposited in the mail, postage prepaid, registered or certified, and addressed to the party entitled to receive such notice as set forth below or to such other address as that party shall subsequently designate to the other party by notice given in accordance with this section.

CITY

Deborah Cyr, Finance Director
City of Bangor
73 Harlow Street
Bangor, ME 04401

SUPPLIER

Ronda Hartley
Clean Harbors Environmental Svcs
40B Carey Circle
Hampden, ME 04444

Notice given in any other manner shall be deemed effective only when the written notice is actually received.

Article 13: Waivers:

No party hereto shall be deemed to have waived any right, power or privilege under this CONTRACT or any provision thereof unless such waivers have been duly executed in writing and acknowledged by the party to be charged with such waiver. The failure of any party hereto to enforce at any time any of the provisions of this CONTRACT or any part thereof shall not be construed at any subsequent time as a waiver of the same provisions, or as a waiver of the right of any party to thereafter enforce each and every such provision.

No waiver of any breach of this CONTRACT shall be held to be a waiver of any other or subsequent breach. All remedies afforded in this CONTRACT shall be taken and construed as cumulative, that is, in addition to every other remedy provided herein or by the law.

Article 14: FTA Contracting Requirements:

The provisions of the attached Exhibit A, the Federal Transit Administration Best Practices Procurement Manual, are incorporated in their entirety as applicable according to the terms of said Exhibit.

Article 15: Integration:

This CONTRACT, Specifications and Bid Form submitted by the SUPPLIER along with all Exhibits attached, set forth the entire CONTRACT and understanding between the parties hereto as to the subject matter of this CONTRACT and shall supersede all prior agreements, commitments, representations, writings and discussions between them, and neither of the parties shall be bound by any obligations, conditions, warranties or representations with respect to the subject matter of this CONTRACT, other than as expressly provided in this CONTRACT or as duly set forth on or subsequent to the date hereof in writing and signed by the proper and duly authorized representative of the party bound thereby.

Article 16: Entire Agreement:

This CONTRACT, together with Exhibit A attached hereto, contains all the terms, conditions and provisions pertaining to the work, there being no other understandings, agreements, warranties either express or implied, relative to the CONTRACT that are not fully expressed herein.

Article 17: Excuse of Performance:

The performance of this CONTRACT, except for the payment of money for services already rendered, may be suspended by either party in the event performance of this Agreement is prevented by a cause or causes beyond the reasonable control of such parties. Such causes shall include but not be limited to: acts of God, acts of war, riot, fire, explosion, accidents, inclement weather or sabotage, lack of adequate fuel, power, raw materials, labor or transportation facilities; changes in government laws, regulations, orders, or defense requirements; restraining orders, labor disputes, strike, lock-out or injunction (provided that neither party shall be required to settle a labor dispute against its own best judgment). The party which is prevented from performing by a cause beyond its reasonable control shall use its best efforts to eliminate such cause or event.

Article 18: Non-Conforming Waste:

If the services involve the transportation and disposal of waste materials, the CITY shall provide SUPPLIER with a description of said waste materials ("Waste Profile"). Upon approval by SUPPLIER, the Waste Profile shall be incorporated into and become a part of this CONTRACT. Waste materials discovered by SUPPLIER to be non-conforming, if in SUPPLIER's possession, shall be prepared for lawful transportation by SUPPLIER and returned to the CITY within a reasonable time after rejection by SUPPLIER, unless the parties agree to an alternative and lawful manner to dispose of the waste materials. The CITY shall pay SUPPLIER at agreed rates for the handling, loading, preparing, transporting, storing and caring for and, if applicable, disposing of such non-conforming waste materials. The waste materials shall be considered non-conforming if the waste materials contain constituents or have characteristics or properties not disclosed on the Waste Profile. Notwithstanding anything to the contrary, the CITY shall be solely responsible for any and all losses, liabilities, claims, penalties, forfeitures, suits, and the cost and expenses incident thereto (including cost of defense, settlement and reasonable attorneys' fees) which SUPPLIER may hereafter incur, or pay out as a result of death or bodily injuries to any person, destruction or damage to any property, contamination of or adverse effects on the environment or any violation of applicable federal, state and local laws, regulations, by-laws or ordinances arising out of or related to non-conforming waste materials, except to the extent the same are caused by the SUPPLIER'S, or its employees' or agent's, negligence or willful misconduct.

IN WITNESS WHEREOF, the parties hereto have caused this CONTRACT to be executed on the day and year first above written.

WITNESS:

CITY OF BANGOR (CITY)

Deborah A. Cyr, Finance Director

WITNESS:

Clean Harbors Environmental Svcs
(SUPPLIER)

MEMORANDUM



TO: Downtown Parking Advisory Committee
FROM: Jason Bird, Community & Economic Development Officer
DATE: February 5, 2015

Proposed Car Shuffling Ordinance

Car shuffling by patrons, employees and owners of Downtown businesses has long been an issue. While there is a perception of a parking shortage in Downtown, the reality is that there are limitations in the City's existing parking enforcement ordinances to prevent and penalize car shufflers. It is widely understood that car shuffling has a negative effect on businesses in Downtown.

There are currently four options available to the City.

- Do nothing
- Implement a zone parking system
- Implement metered parking, or
- Implement a license plate reader system

The goal is to develop a parking enforcement system that would dissuade car shuffling and encourage people to relocate to the off-street parking lots that were created for those parking longer than a few hours. The following is a very brief introduction to each of the options. I will be presenting more information, along with maps, at the Committee's next meeting on February 13th.

Zone Parking

This option would break the Downtown Parking Management District into as many six zones. Once someone parked, and their car was electronically chalked, they cannot return to any spot in that zone for the remainder of that day unless they wanted to pay a fine. The periphery of Downtown would become 2 hour parking and not subject to the zone parking restrictions.

Metered Parking

Using kiosk-like machines, the City would implement a pay by space system in specific areas of Downtown. The unmetered spaces could either have one specific time limit or could be more like the system we currently have, with multiple zones reflecting the uses of buildings in that area. It is too early at this point to determine what the fees and revenue would be; if chosen as an option to explore further, an analysis of maintenance costs and revenue would be needed. While cheaper,

individual meter units are not tenable in Downtown given the complexity, and frequency, of snow removal.

License Plate Reader System

Under a license plate reader system, the current parking enforcement staff who patrol Downtown on foot would be replaced with a vehicle mounted system that would automatically identify violations and print tickets as a vehicle drives through the streets of Downtown.

I look forward to exploring these options with you next week.